

Constructed in respect of a vessel means a stage of construction when—

- (1) The keel of a vessel is laid;
- (2) Construction identifiable with the specific vessel begins;
- (3) Assembly of the vessel has commenced and comprises at least 50 tons or 1 percent of the estimated mass of all structural material, whichever is less; or
- (4) The vessel undergoes a major conversion.

Exchange means to replace the water in a ballast tank using one of the following methods:

- (1) *Flow-through exchange* means to flush out ballast water by pumping in mid-ocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water has been changed to minimize the number of original organisms remaining in the tank.

- (2) *Empty/refill exchange* means to pump out the ballast water taken on in ports, estuarine, or territorial waters until the pump(s) lose suction, then refilling the ballast tank(s) with mid-ocean water.

International Maritime Organization (IMO) ballast water management guidelines mean the Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens (IMO Resolution A.868 (20), adopted November 1997).

National Ballast Information Clearinghouse (NBIC) means the National Ballast Information Clearinghouse operated by the Coast Guard and the Smithsonian Environmental Research Center as mandated under the National Invasive Species Act of 1996.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place to which a vessel is bound to anchor or moor.

Seagoing vessel means a vessel in commercial service that operates beyond the boundary line established by 46 CFR part 7. It does not include a vessel that navigates exclusively on inland waters.

Shipboard Technology Evaluation Program (STEP) means a Coast Guard research program intended to facilitate

research, development, and shipboard testing of effective BWMS. STEP requirements are located at: http://www.uscg.mil/environmental_standards/.

United States means the States, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

Voyage means any transit by a vessel destined for any United States port or place.

[USCH-2001-10486, 77 FR 17306, Mar. 23, 2012, as amended at 77 FR 33970, June 8, 2012]

§ 151.2010 Applicability.

This subpart applies to all non-recreational vessels, U.S. and foreign, that are equipped with ballast tanks and operate in the waters of the United States, except as expressly provided in § 151.2015 or § 151.2020 of this subpart.

§ 151.2013 Severability.

If a court finds any portion of this subpart to have been promulgated without proper authority, the remainder of this subpart will remain in full effect.

§ 151.2015 Exemptions.

- (a) The following vessels are exempt from all of the requirements of this subpart:

- (1) Any Department of Defense or Coast Guard vessel subject to the requirements of section 1103 of the Non-indigenous Aquatic Nuisance Prevention and Control Act, as amended by the National Invasive Species Act; or any vessel of the Armed Forces, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1322(a)), that is subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces" (33 U.S.C. 1322(n)).

- (2) Any warship, naval auxiliary, or other vessel owned or operated by a foreign state and used, for the time being, only on government non-commercial service. However, such vessels should act in a manner consistent, so far as is reasonable and practicable, with this subpart.

- (b) The following vessels are exempt from the requirements of §§ 151.2025

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(ballast water management (BWM) requirements), 151.2060 (reporting), and 151.2070 (recordkeeping) of this subpart:

(1) Crude oil tankers engaged in coastwise trade.

(2) Vessels that operate exclusively within one Captain of the Port (COTP) Zone.

(c) The following vessels are exempt only from the requirements of § 151.2025 (BWM requirements) of this subpart:

(1) Seagoing vessels that operate in more than one COTP Zone, do not operate outside of the Exclusive Economic Zone (EEZ), and are less than or equal to 1,600 gross register tons or less than or equal to 3,000 gross tons (International Convention on Tonnage Measurement of Ships, 1969).

(2) Non-seagoing vessels.

(3) Vessels that take on and discharge ballast water exclusively in one COTP Zone.

§ 151.2020 Vessels in innocent passage.

A foreign vessel that is merely traversing the territorial sea of the United States (unless bound for, entering or departing a U.S. port or navigating the internal waters of the U.S.) does not fall within the applicability of this subpart.

§ 151.2025 Ballast water management requirements.

(a) The master, owner, operator, agent, or person in charge of a vessel equipped with ballast tanks that operates in the waters of the United States must employ one of the following ballast water management methods:

(1) Install and operate a ballast water management system (BWMS) that has been approved by the Coast Guard under 46 CFR part 162. The BWMS must be installed in accordance with § 151.2035(b) of this subpart. Following installation, the master, owner, operator, agent, or person in charge of the vessel subject to this subpart must properly maintain the BWMS in accordance with all manufacturer specifications. Unless otherwise expressly provided for in this subpart, the master, owner, operator, agent, or person in charge of vessels employing a Coast Guard-approved BWMS must meet the applicable ballast water discharge standard (BWDS), found in § 151.2030 of

this subpart, at all times of discharge into the waters of the United States.

(2) Use only water from a U.S. public water system (PWS), as defined in 40 CFR 141.2, that meets the requirements of 40 CFR parts 141 and 143 as ballast water. Vessels using water from a PWS as ballast must maintain a record of which PWS they received the water from as well as a receipt, invoice, or other documentation from the PWS indicating that water came from that system. Furthermore, they must certify that they have met the conditions in paragraphs (a)(2)(i) or (ii) of this section, as applicable, and describe in the BWM plan the procedures to be used to ensure compliance with those conditions, and thereafter document such compliance in the BW record book. Vessels using water from a PWS must use such water exclusively unless the usage is in accordance with § 151.2040 of this subpart. Vessels using PWS water as ballast must have either—

(i) Previously cleaned the ballast tanks (including removing all residual sediments) and not subsequently introduced ambient water; or

(ii) Never introduced ambient water to those tanks and supply lines.

(3) Perform complete ballast water exchange in an area 200 nautical miles from any shore prior to discharging ballast water, unless the vessel is required to employ an approved BWMS per the schedule found in § 151.2035(b) of this subpart. An alternate management system (AMS) that meets the requirements of § 151.2026 of this subpart may also be used, so long as it was installed on the vessel prior to the date that the vessel is required to comply with the BWDS in accordance with § 151.2035(b) of this subpart. If using an AMS, the master, owner, operator, agent, or person in charge of the vessel subject to this subpart may employ the AMS for no longer than 5 years from the date they would otherwise be required to comply with the BWDS in accordance with § 151.2035(b) of this subpart;

(4) Do not discharge ballast water into waters of the United States.

(5) Discharge to a facility onshore or to another vessel for purposes of treatment. Any vessel owner/operator discharging ballast water to a facility onshore or to another vessel must ensure